



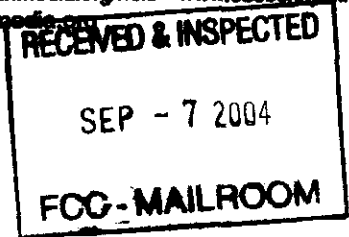
Founded 1962

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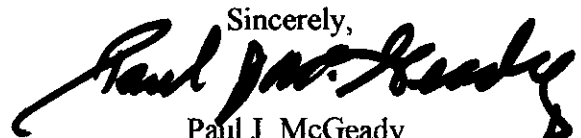
September 1, 2004

Commission's Secretary  
Office of the Secretary  
Federal Communications Commission  
445 12<sup>th</sup> Street S.W.  
Washington, D.C. 20554

In the Matter of  
Violent Television Programming  
and its Impact on Children  
MB Docket 04-261

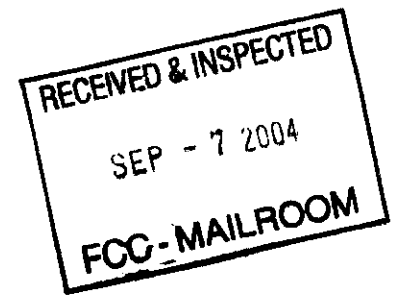
We enclose herewith an original and four copies of our Comments in the above captioned matter.

PJM/tp

Sincerely,  
  
Paul J. McGeady  
General Counsel

No. of Copies rec'd 074  
List ABCDE

Before the  
Federal Communication Commission  
Washington, D.C. 20554



In the Matter of )  
Violent Television Programming )  
and It's Impact on Children )

MB Docket 04-261

COMMENTS  
OF  
MORALITY IN MEDIA, INC.

Morality In Media submits these comments in response to the Commission's July 28, 2004 Public Notice seeking comment, inter alia, on the Effects of Viewing Violent Programming particularly on children and the need to define deleterious violence and to articulate the types of violence that are of greatest concern particularly with respect to children. The NOI also wants comment on TV Parental Guidance and the V-Chip as tools to screen out violence and whether these should be a Safe Harbor for Violence.

I. The Meaning of the Word Indecent  
In 18 USC 1464

The NOI indicates at page 11 that, since the United States Supreme Court in Pacifica has accepted the definition of the word "indecent" in 18 USC 1464 as non-conformance with accepted standards of morality, it might be possible to include certain forms of violence as within the perimeters of that word. We agree. We note, at the outset, that the Supreme Court did not modify its definition to restrict the phrase to "in

sexual connotations” even though such descriptions or depictions may very well, and often are, deemed indecent.

If we refer to Webster’s Encyclopedic Unabridged Dictionary of the English Language, New Deluxe Edition (Thunder Bay Press 2001) we find the following:

**Indecent** 1. Offending against generally accepted standards of propriety or good taste, improper, vulgar...2. Unbecoming or unseemly.

It can be observed that Webster does not restrict its meaning to sexual descriptions or depictions although some such depictions or descriptions are included.

If we turn to Black’s Law Dictionary (Seventh Edition 1999) we observe a similar treatment:

**Indecency** is the condition or state of being outrageously offensive in a vulgar or sexual way.

**Obscenity** is that which is offensive to chastity. **Indecency** is often used with the same meaning, but may also include anything which is outrageously disgusting... (Rolin M. Perkins & Ronald L. Boyce, Criminal Law 471 (3d Ed. 1982).

Turning to Black’s Law Dictionary for a definition of **Violence** we find;  
“Unjust or unwarranted use of force usually accompanied by fury, vehemence or outrage; physical force unlawfully exercised with the intent to harm”.

Webster’s Dictionary, *supra*, has a similar definition of **Violence** as:

1. Swift and intense force.
2. Rough or injurious physical force, action or treatment.
3. An unjust or unwarranted exertion of force or power.

## II. Developing a New FCC Definition of Indecent

Now, if we attempt to distill the essence of violence as a sub-species of 1464 Indecency using the Supreme Court, Webster's Dictionary and Black's Law Dictionary, the FCC might come up with a definition of Indecent reading as follows:

**Indecent** speech is language that, in context describes or depicts either,

(1) Sexual or excretory activities or organs

or

(2) Outrageously offensive or outrageously disgusting violence

or

(3) Severed or mutilated human bodies or body parts.

In terms patently offensive as measured by Contemporary  
Community Standards for the Broadcast Medium

**Violence** is intense, rough or injurious use of physical force or treatment either recklessly or with an apparent intent to harm.

Now, it will be observed that the "Definition" of Indecent to meet the problem of the Depiction of Violence on TV without including subsection 3( relating to severed or mutilated body parts) would be ineffective in that without subsection 3 the only depictions prohibited would be the act of violence or the actual severance of heads, or actual mutilation. The FCC would be hard pressed to include the depiction of the severed head or body parts themselves as "violence" especially where the act of violence, that produced the severed head or body parts, occurs "off camera". Blood, gore and body parts are the result of violence not the violence itself.

Now there is no necessity to precede severed or mutilated with the adjective, "outrageous" since such severance or mutilation, is by its nature, outrageous. Any clinical or medical severance or mutilation will be protected by the adjective phrase, "patently offensive".

If you will refer to the Exhibit B attached to these comments you will observe that the stations that have “pushed the envelope” have shown the body parts and not the severing. If this aspect is not covered, they will continue to do so in a more gross and gruesome fashion.

As Pacifica tells us “indecent” means “Nonconformance with accepted standards of Morality”. If “violence” fits within that umbrella, so to do depictions or descriptions of severed heads or body parts. Nevertheless, severed body parts should be spelled out in the final rule because such may not fall within the genus “violence” as a sub-species of that word, but assuredly fit under the Indecency umbrella as defined by the U.S. Supreme Court in Pacifica.

Morality In Media would expect that, under the criteria suggested, the FCC would be in a position to reflect the ordinary common definition and the mores of the Broadcast Audience who, in a practical sense, would not consider many violent depictions or descriptions “outrageously offensive or outrageously disgusting”. Depictions of simulated war activities, especially those purporting to be distant in time, would not meet the criteria of outrageously offensive or outrageously disgusting. There are, however, warlike activities that the average person would consider outrageously offensive or outrageously disgusting such as a close-up depiction of the act of a scalping, of beheading or mutilation of a human body.

Other combative activities, especially the non-imitative type, such as a “Shoot-Out” at the Old Corral or a laser gun confrontal “Star Wars” scene would not get the same reaction of outrageousness or disgust. They are too far removed in time and place or from reality and are non-imitative in daily life.

The NOI reflects on fairy tales and so called ridiculous cartoon violence. That sort of depiction (unless outrageous or disgusting or profane) probably does no real harm because “It’s only a fairy tale”. “It’s not real and cannot happen” etc. (But See Exhibit B, infra. At all events, if the FCC goes far a field in its quest for a prohibition, it will lose the underpinning of the use of the word “indecent” in Pacifica and as commonly defined in the dictionary.

The use of the adjective phrase “gratuitous violence”, as a primary yardstick, is unsatisfactory because “gratuitousness” has no part of the meaning of the word “indecent”. The mere fact that it is gratuitous does not make it disgusting or outrageous and conversely, violence that is arguably nongratuitous could be outrageous or disgusting depending on, for example, when it is aired. The phrase “excessive violence”, as a primary yardstick, is also unsatisfactory because violence can be disgusting or outrageous and still not be “excessive”. While gratuitous or excessive may be factors to be considered, they are not determinative in any definition of the word, indecent and you lose the underpinning.

Another factor to be considered is whether violence is imitative “Kung-Fu” comes to mind. The Dictionary defines “Kung-Fu” as:  
“An ancient Chinese method of self defense by striking blows at vulnerable areas of an attacker’s body using fluid movements of the hands and legs”.

This, if practiced as described, e.g. for example, hitting an opponent’s genitals is not only outrageously offensive and outrageously disgusting but is imitative.

### III. Safe Harbor

There should be no safe harbor for violence since no statute requires it and Pacifica indecency concept applies to both children and consenting adults. In addition,

Section 18 U.S.C. 1464 does not, and should not, be construed to give a safe harbor to violence. The statute now permitting a safe harbor for indecency was adopted when “indecent” was restricted to sexual or excretory functions and should be so restricted.

#### **IV. TV Ratings Systems and The V-Chip**

The NOI asks for comment on whether or not the rating system and the V-Chip are accomplishing their purpose. Morality In Media contends that the answer is No! The rating system, in particular, was improperly “accepted” by the FCC and needs a drastic overhaul, perhaps by the FCC indicating that their original “acceptance” is withdrawn since the rating system has proved unsatisfactory. Alternately, Congress can legislate in this field to set up an independent Rating Board.

#### **V. The Inadequacy of the Present Rating System**

Precinding for the moment from the fact that the Rating is imposed by the Programmer and this puts the mouse in charge of the cheese, we now discuss the impropriety and inadequacy of the ratings:

##### **(A) Programs Rated TV-Y**

The industry tells us that these programs are designed to be “appropriate for all children” (including children from ages 2 to 6) and that these programs are “not expected to frighten children”. The difficulty with this “explanation” is that it does not give parents sufficient information as to what kinds or types of programs will be included and leaves that matter to the discretion of the industry programmer so that it will vary from

network to network and from producer to producer. Will violence be depicted? Will it be animated or live? What are the criteria by which the themes and elements are selected or excluded? Will there be any coarse, vulgar or profane language? These concerns cannot, as they are today, be left to variation or non-disclosure. There is no central authority to set out criteria or to make these determinations. Right now, the TV-Y determination, as they say in Law, "Is as long as the Chancellor's foot". This phrase was coined by John Selden, a 17<sup>th</sup> Century Jurist, in his book "Table Talk" where he said:

"tis...as if they should make the measure the Chancellor's foot. What an uncertain measure would this be! One Chancellor has a long foot, another a short foot, a third an indifferent foot".

We need an objective criteria applicable to all programmers. We also make a simple suggestion. If the industry is sincere, it should amend the TV-Y rating to add an NV, NS, and NL meaning of course, "No Violence, No Sex and No Vulgar or Profane Language".

#### **(B) Programs Rated TV-Y7 & TV-Y7-FV**

This rating suffers from the same difficulties as above. It is even more subjective in that it talks about "fantasy violence" which is not defined. We need more detail. The same is true of the phrases "comedic violence" and "may frighten children under the age of 7". What is "comedic violence?" Why would it frighten children under the age of 7? What objective standards will the Industry use to make these determinations? Or are the determinations going to be ones that are again "As long as the Chancellor's foot?"

Unfortunately, in this case, we have a thousand different chancellors, and each one may have a different size Brogan. In other words, to put it in legalistic terms, the criteria are "vague" and unspecified. If such phrases were put into a statute, it would be



held unconstitutional because men or women will reasonably differ as to their application. There are a myriad of cases upholding that definition of “vagueness”.

The purpose of the rating system is to give parents the ability to chose (block). The rating system ill serves that end. If the Industry is willing to add the symbols “FV” (Fantasy Violence), or “CV” (Comedic Violence), why not the symbols “NS” (no sexual situations), “NL” (no coarse, vulgar or profane language) and “NOV” (“no other violence”)?

### **(C) Programs Rated TV-G**

This is, in itself, an imposition on the Commission and the General Public it purports to serve. Who in the Industry has the arrogance to create a category reading, “Most parents would find this program suitable for all ages?” This is a determination they have no proven capability to make. Give us the objective standards! Let the parents make the determination, not the Industry. This description of the category also has the effect of pulling the wool over the eyes of the Commission and the public by the use of the phrases “little or no violence”; “little or no sexual dialogue or situations”. This leaves a hole in the ratings, as they say, big enough to drive a truck through. Imagine the pleasure of those in the Industry who delight in “pushing the envelope”. This is tailor-made to their liking. The word, “little”, means that they have the leeway, under the category, to present a “little” explicit sex and dialogue and a “little” imitative or outrageous violence and still have the benefit of a general audience and the program enhancement that this category brings.

#### (D) Programs Rated TV-PG

Here again, without a scorecard, we cannot know what is meant by the vague terms “younger children”, “moderate violence”, “some sexual situations”, “infrequent coarse language” or “some suggestive dialogue”. Give us definitions and objective criteria!

Again, those TV programmers who wish to push the envelope will find adequate room (1) to stretch the undefined elastic word “moderate” to suit their ratings goals, (2) to read “some” as meaning that exploitative sex is okay, as long as you present it only “sometimes” in the program, (3) to interpret the word “infrequent” to mean “not as often as you want but as often as you can get away with,” and (4) to interpret “some suggestive dialogue” as meaning it is okay to be in the gutter, as long as you don’t stay there. As a result, at present TV-PG programming includes some of the best and some of the most ill-suited programs for a child on TV.

#### (E) Programs Rated TV-14

Here again the Industry has made a decision to draw a line at age 14 (i.e. children in eighth grade). This is unacceptable. They suggest in this rating that children over 13 can suitably watch (unattended) programs containing “intense violence”, “intense sexual situations”, “strong coarse language” or “intensely suggestive dialogue”. This is an affront to all American parents. This material is generally unsuitable for all children.

It seems to describe what would be considered “indecent” under 18 U.S.C. 1464. The category ignores the fact that the statute does not distinguish between children over 13 and under 18. We propose that the FCC now reject this category out of hand as

against public policy. In addition, it is wide open and will, in effect, become the “R” rated category for TV—a category that can be obscene for minors. Again it is wide enough for any irresponsible programmer to show almost whatever he or she wants. Furthermore, the words “intense”, “strong”, “coarse” and “suggestive” are not objectively defined and leave room for irresponsibility. Intense violence is a synonym for outrageously indecent violence.

#### (F) Programs Rated TV-MA

We suggest that the Commission now reject this category. You will recall that the word “indecent” does not require that the program be taken as a whole, or that the Commission find that it is redeemed by literary, artistic, political or scientific value. What the Industry, which includes broadcasters has proposed is that they be permitted to show “indecent” material provided they label it “TV-MA”.

We analogize this category to include not only R, but “X” rated content, and the Commission should recognize it as such. Again the Industry has not defined the phrase “explicit” or “crude” or “indecent language” and practically admits that they intend to violate or test the limits of the indecency statute and the patience of the FCC. If the industry wants an honest symbolism we suggest substituting the symbol “TV-X”.

#### (G). Monitoring Board

This is an anomaly. It is supposed to insure that the guidelines are applied accurately and consistently. Where are the details? Is this the mouse watching the cheese? Are a majority of on the board to be TV Industry people? Are they to be the judge of their own damages? How can they possibly prevent a mislabeled program from

seeing the light of the day unless they apply a prior restraint (which no programmer is obliged to accept)? How will they prevent renegade producers from repeatedly mislabeling programs? The guidelines that the industry proposed do not reflect the congressional intent that advocacy groups have a fair and effective means to monitor the program ratings. The original composition proposed was 19 Industry members (including the Chairman) and five non-industry members. That is not a fair and effective means to monitor industry program ratings.

### 3. Rating System Conclusions


We conclude for all the above, that the FCC should now reopen and reject the Revised Rating System and proceed, in conjunction with an independent advisory committee, to prescribe its own guidelines and recommend procedures for the identification and rating of video programming that contains sexual, violent or profane or other indecent material.

Again, we point out that TV-MA envisions the transmission of “indecent” programming. This should alert the FCC to the fact that some broadcasters may attempt to use the rating system as an excuse to avoid incurring liability for violation of 18 U.S.C. 1464. After all, the FCC approved of the Indecent Language Category. The FCC should be prepared to evaluate such programs (if need be, by monitoring them) or requiring a tape from the station and, where appropriate, issue Notices of Apparent Liability.

Set forth in Appendix A are additional criticisms of the Rating System, not included in the above comments.

Appendix B sets forth exhibits showing the prevalence of violence and human mutilation on TV and its harmful effects.

Respectfully submitted,  
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September 1, 2004

## Appendix A

### Exhibit No. 1

Doctors David Walsh and Douglas Gentile are the authors of an Article in Pediatrics in June of 2001 (Vol. 7 No. 6) entitled, "Validity Test of Television Ratings". There follows a Summary of the results of their findings in comparing Parent Program Raters with Industry Ratings of Television and Film Ratings:

- (1) Parent Program Raters disagree with Industry usage of many of the ratings designating material suitable for children of different ages.
- (2) Parents and caretakers relying on the Rating Systems to guide their children's use of media products should continue to monitor content independently.
- (3) Industry Rating Systems should be revised with input from the medical and scientific communities to improve their reliability and validity.
- (4) A single rating system, applied universally across the board, would greatly simplify the efforts of parents and caregivers to use the system as well as the efforts of outside parties to monitor the use and validity of the system.
- (5) The average child, 2 to 18 years old watches 2 hours and 46 minutes of television each day.
- (6) 65% of children ages 8 to 18 have a television set right in their bedrooms.
- (7) Data suggests that Television Viewing is the Least Monitored activity.
- (8) Other than the rating of TV-MA, the Industry Television Ratings are Too Lenient.
- (9) When one-half of the televisions shows rated appropriate for teenagers get Red Lights from the Parent Raters, it signals that Industry Ratings of Television are misleading.
- (10) A similar disconnect exists between industry ratings and parent ratings in that parents indicated that 38% of the TV-PG Industry rated shows were deemed inappropriate for children.

## Appendix B

### Summary

**Exhibit 1**-This is an item which appeared in USA Today on November 14, 2002. This states that:

“Violence and blood have become more visible recently as the explicitness has migrated to the top rated network show meaning more viewers are confronted by it. The trend can be traced to the ‘Sopranos’”.

**Exhibit 2**-This is an Executive Summary of the National Television Violence Study (Vol. 3). Inter alia, it finds:

“Repeated exposure to trivialized violence that is made to seem trivial can contribute to both desensitization and learning among viewers”.

and

“60% of programs contain violence.”

and

“54% show lethal violence.”

and

“Most of the violence is glamorized.”

and

“For children under 7 high-risk portrayals of violence that teach aggression are found most often in cartoons.”

and

“The average American preschooler who watches mostly cartoons is exposed to over 500 high-risk portrayals of violence each year”.

**Exhibit 3**-This is an article by David Bianculli that appeared in the Daily News on April 17, 2003. He says:

“Jack Bauer died at the end of the Fox’s ‘24’ Tuesday... What shocked me was the way he died. He was tortured for most of the show’s hour, in some of the most disturbing and graphic violence, I’ve ever seen on a Broadcast Network Program. Bauer was hung naked from the wrists with his mouth forced open with a bit gag. The skin was sliced with a scalpel. He was shocked with electrical current and his flesh was burned until parts of his body emitted smoke.

**Exhibit 4**-This item shows Highlights from CBS’s Crime Scene Investigation of February 21, 2002. It reads:

“The 8:00 (P.M.) episode contained graphic scenes of violence, gore and dismembered bodies, including:

‘A severed human head... a skinned headless body, the hands and feet have been cut off. The chest area of the dismembered body is shown and muscles and tissue are exposed’”.

**Exhibit 5**-This is an item dated 5/18/04 from "Your Guide to Radio" by Corey Deitz.

It tells us:

"Late last week two Portland morning DJ's were fired because they aired the audio portion of the Nick Berg beheading video and basically made fun of the whole thing... The stupid stunt was epitomy of indecency on the air. Yet if Intercom had not policed itself, the FCC certainly would not have issued any fines or warnings. After all, the program segment wasn't about sex or excretory organs...it was about violence".

**Exhibit 6**-This is a September 2003 item from the American Family Association Journal.

It notes:

"The American Psychological Association has estimated that the average child in the United States sees on TV 8,000 murders and 100,000 acts of violence before finishing elementary school".



# New reality: Right up close with the gore

By Donna Freydkin  
Special for USA TODAY

11/14/02

On the cutting edge

Heads are rolling at Fox, arms are flying off at NBC, and brains are being crushed at CBS as guts get all the glory on network television.

"Today, people are more aware of what's real and what's theatrical and fake," says *ER* executive producer John Wells, who featured a severed arm on this season's opener. "You have to make things that much more realistic."

The gross-out factor is nothing new to prime time. Bugs, bodies and blood have been a staple on shows from *Quincy* to *X-Files*. And there always has been violence on TV: *Buffy the Vampire Slayer*, *Xena: Warrior Princess* and *Walker, Texas Ranger* were consistently ranked by the Center for Media and Public Affairs as some of the most violent fare on the air.

But violence and blood have become more visible recently as the explicitness has migrated to top-rated network shows, meaning more viewers are confronted by it.

The trend can be traced to *The Sopranos* (Sundays, 9 p.m. ET/PT), HBO's violent and viraciously sexual tale of a New Jersey Mafia clan, brutal beatings, bloody shootings and sizzling sex abound on the show, which attracts an average of 10 million viewers each week. The broadcast networks can't duplicate its graphic nature, and unlike HBO, they have to please advertisers.

But that hasn't stopped broadcast networks from taking their own stabs at titillating television with shows such as *CSI*, *CSI: Miami*, *ER*, *Fastlane* and *24*. "The violence on *The Sopranos* is inseparable from the milieu and serves a really important moral purpose, because it's a study of evil," says Mark Crispin Miller, a professor of media studies at New York University. "But most of these other shows use violence pornographically to compete with cable. The networks' ever-increasing luridness and emphasis on shock value is a sign of their desperation."

Not so, say the creators of CBS'

► *The Sopranos*, HBO: Ralph Cifaretto is decapitated (off screen); head, hands visibly placed in bowling bag. (Nov. 10)

► *24*, Fox: Police informant's head is hacked off (off screen) by agent Jack Bauer; head carried in a canvas bag to terrorists' hideout, falls out. (Nov. 5)

► *CSI*, CBS: Forensic investigator Gil Grissom cuts off cadaver's hand, slips his own finger into burned skin to get a fingerprint. (Oct. 31)

► *CSI: Miami*, CBS: Coroner Alexx Woods autopsies a fetus extracted from the body of a woman. (Oct. 21)

► *ER*, NBC: Dr. Robert Romano's arm is chopped off by helicopter rotor. (Sept. 26)

*CSI* (Thursdays, 9 p.m. ET/PT), which averages nearly 30 million viewers each week and has topped NBC's *Friends* as this season's hottest show. The series revels in its unflinching approach to death but presents disturbing visual elements in such a stylized way as to make severed limbs and exposed skulls seem almost beautiful.

"The realism of our show grew out of a genuine excitement about science, but we have been told that in a couple of scenes, we might have pushed it too far," says Carol Mendelsohn, an executive producer. "In last season's finale, a rat came out of the mouth of a woman's dead body, and people wrote in and said it was too gross. But it came out of a true-life experience. ... We never do something just for the sake of doing it."

Some might wonder whether that's true for *CSI*'s hit spinoff, *CSI: Miami* (Mondays, 10 p.m. ET/PT), this season's highest-rated new show. *Miami* is less blatant than its parent but can be equally shocking in more subtle ways. In this week's episode, for example, a blood-stained toddler tottered into the street after her entire family had been massacred.

**Fastlane:** The new show is among those in which the violence comes fast and furious. Here, a victim is shown being shot.



Khandi Alexander, who plays *Miami*'s coroner, says, "As an actor, you just try your best to bring a little dignity to it, keep your own personal feelings out of it and make it as believable as possible."

In fact, that's what the networks say they're striving to do. In the season opener of Fox's CIA drama *24* (Tuesdays, 9 p.m. ET/PT), federal agent Jack Bauer shoots a villain in the chest and then requests a hacksaw to remove the head.

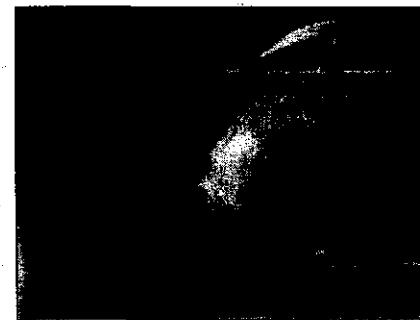
"It was an extreme thing for Jack to do, but he did it for a reason," *24* co-creator Robert Cochran says. "We want to shock people in the story sense, not the gore sense."

And even NBC's *ER* (Thursdays, 10 p.m. ET/PT) kicked off its season with an episode featuring the severed, bloody arm of Robert Romano, who is separated from his limb by a helicopter's rear rotor. Says *ER*'s Wells: "Every year we have upped the amount of reality you

actually see, the body and the bodies cut up. But we've done it gradually, because we're just trying to make it more realistic."

"And no one has told me they've stopped watching because it's too bloody. In fact, they want more of it."

Indeed, the Parents Television Council, which monitors the level of sexual and violent content on TV, says the majority of parents complain about sex-laden pro-

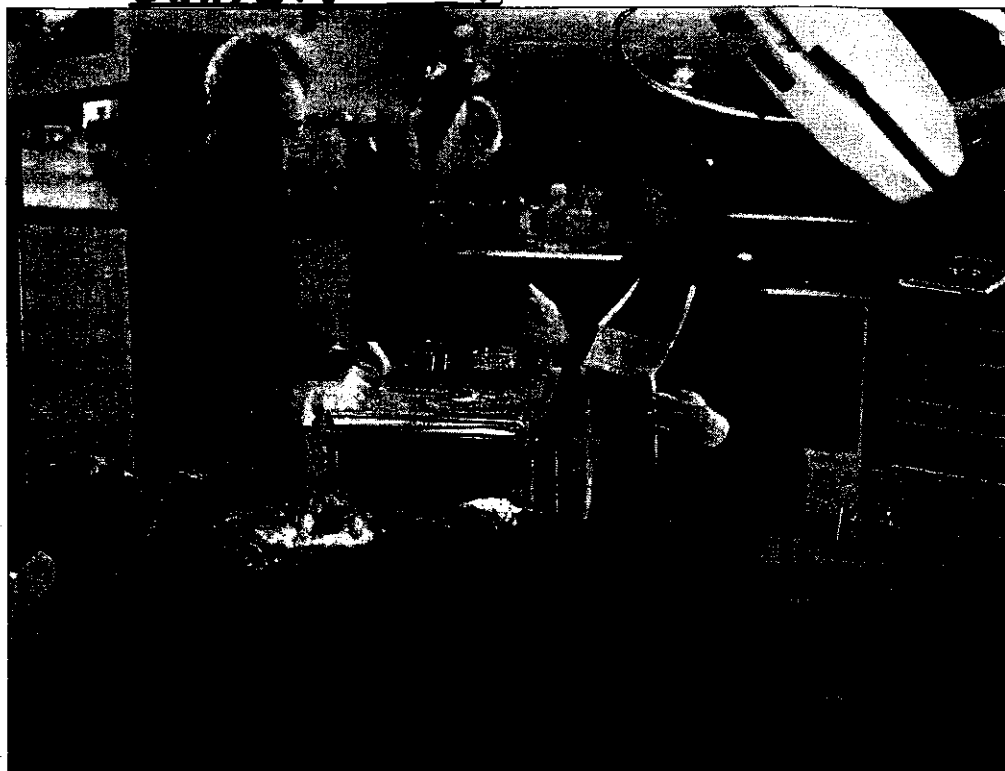


**24:** A severed head in a bag shocks "in the story sense."

gramming such as the Victoria's Secret fashion shows, not the carnage of *CSI* or *24*.

"It's part of this overall trend of pushing the envelope," says Melissa Caldwell of the council. "And we do worry that with the networks, it's a case of having to continually push the envelope to achieve the same visceral reaction."

Media watchers don't expect the body count to go down anytime soon. "What sparked outrage five years ago now seems tame," NYU's Miller says. "If you subsist on a diet that's extremely pungent, you eventually lose your appetite for subtler flavors."



Robert Hanashiro,  
USA TODAY

**CSI: Miami:** David Caruso and Khandi Alexander perform an autopsy on a charred victim.

# NATIONAL TELEVISION VIOLENCE STUDY



VOLUME 3

## EXECUTIVE SUMMARY

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CENTER FOR COMMUNICATION AND SOCIAL POLICY  
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# FINDINGS

## Violence in Television Programming Overall

UNIVERSITY OF CALIFORNIA, SANTA BARBARA

- THE WAY THAT MOST TV VIOLENCE IS PORTRAYED CONTINUES TO POSE RISKS TO VIEWERS.

**Much of TV violence is still glamorized.** Good characters are frequently the perpetrators of violence, and rarely do they show remorse or experience negative repercussions for violence. *Across the three years of this study, nearly 40% of the violent incidents on television are initiated by characters who possess qualities that make them attractive role models* (See Table 4). Viewers of all ages are more likely to emulate and learn from characters who are perceived as attractive.

Another aspect of glamorization is that physical aggression on television is often condoned. For example, *more than one third of violent programs feature "bad" characters who are never punished anywhere in the plot.* For the audience, violence that goes unpunished poses risk because it is more likely to be imitated or learned than violence which is condemned. However, for very young viewers, penalizing the bad character toward the end of the story may not be enough to lessen risk. Viewers below the age of 7 often lack the capability of linking these later consequences to the earlier antisocial behavior. Therefore, violence that goes unpunished in the short run poses serious risk to children under 7. *Fully 71% of violent scenes contain no remorse, criticism, or penalty for violence at the time that it occurs, and this finding has been stable from 1994 to 1997.*

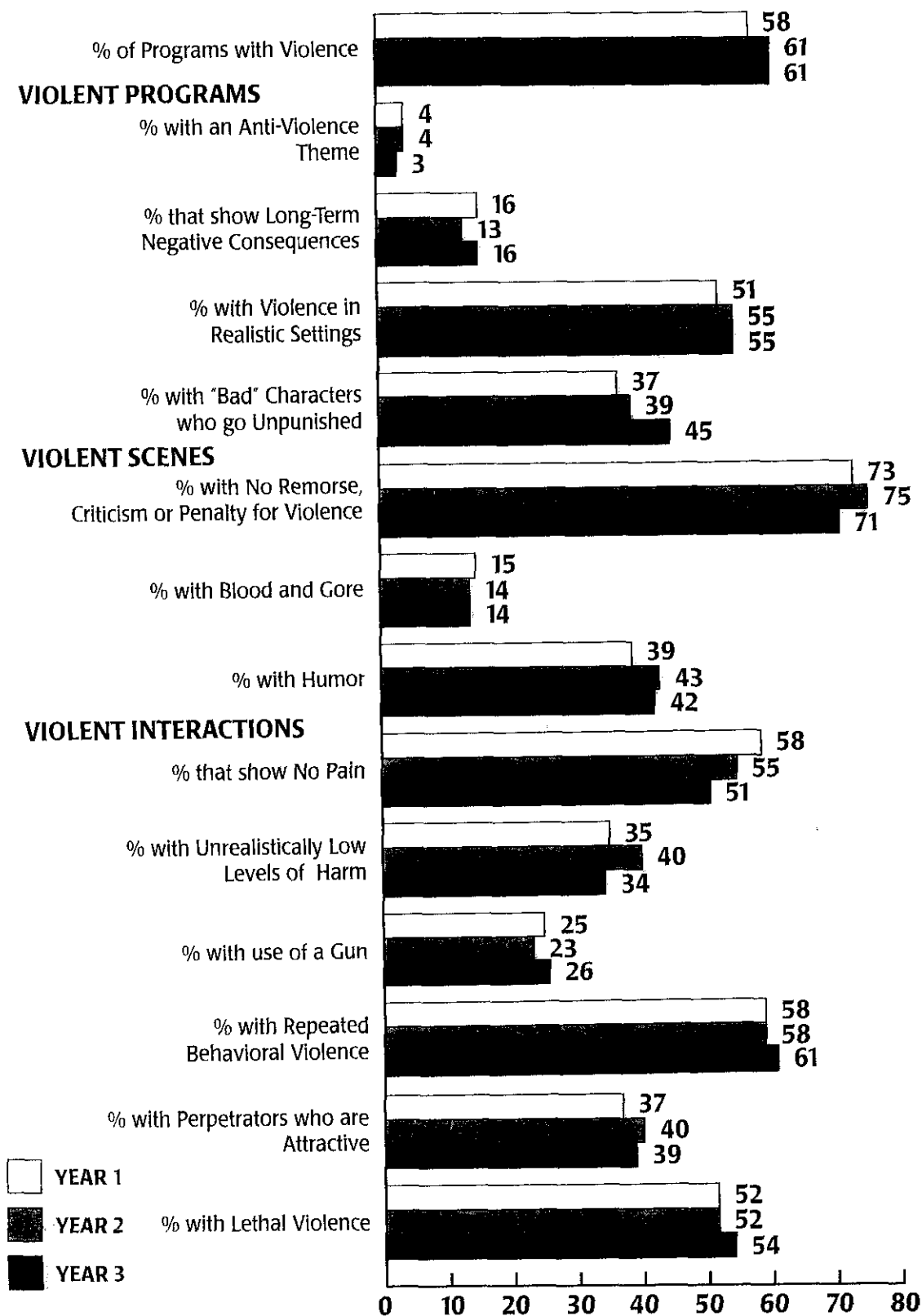
**Most violence on television continues to be sanitized.** Television often ignores or underestimates what happens to the victims of violence. *In fact, roughly half of the violent incidents on television show no physical harm or pain to the victim.* Again, this finding has been consistent over three years. Not only are short-term outcomes often missing, but so are long-term consequences. Over the three-year period, *less than 20% of the violent programs portray the long-term damage of violence to the victim's family, friends, and community.* Research indicates that portraying the outcomes of violence, such as pain and suffering, can decrease the chances that viewers will learn aggression from media violence.

**Much of the serious physical aggression on television is still trivialized.** Violent behaviors on television often are quite serious in nature. *Across the three-year study, more than half of the violent incidents feature physical aggression that would be lethal or incapacitating if it were to occur in real life.* In spite of very serious forms of aggression, much of this violence is undermined by humor. *At least 40% of the violent scenes on television include humor. Repeated exposure to serious violence that is made to seem trivial can contribute to both desensitization and learning among viewers.*

**Very few programs emphasize an anti-violence theme.** A program can include violence in a way that is actually educational rather than harmful for the audience. For example, violence can be shown to have strong negative consequences to the victim, or alternatives to violence can be emphasized. *Less than 5% of violent programs feature an anti-violence message across the three years of the study.* Translating this figure, only 232 programs of the nearly 5,000 programs with violence analyzed since 1994 convey a strong prosocial message about violence.

TABLE 4

## Overall Industry Averages: Three-Year Comparisons



### EXAMPLE OF AN ANTI-VIOLENCE THEME IN A COMEDY SERIES

The following situation comedy tells the story of an 8-year-old boy who gets his remote controlled toy car stolen by the neighborhood bully. The bully threatens to beat up the little boy if he tells anyone about the theft. After grappling with the issue of what to do, the younger child decides to go back and fight the bully the very next day. Using some newly learned karate skills, he wins the battle and succeeds in regaining the car.

There is no father figure in the little boy's life, but the closest role model is a young man in his twenties who rents a room from the child's mother. The young man is an athlete, and obviously quite strong physically. When the youngster returns home after his fight, he is followed shortly thereafter by the bully's angry father. The father wants to pick a fight with someone, so he focuses his fury on the athletic young man.

The young man's response is calm and cool, but the bully's father keeps insisting on a physical confrontation and makes insulting comments in order to provoke a fight. Despite his rising anger, the young man refuses to use violence but instead he pummels a nearby punching bag so hard that it shreds apart. Sensing the physical mismatch, the bully's father backs off and both men agree that it would be stupid to fight. A poignant scene follows in which the young man gains the respect of others in the show for his nonviolent approach, and the little boy learns a valuable lesson about resolving conflict with words instead of fists. The show conveys the message that violence should be avoided and depicts a concrete example of a strong character who shows how to do it.

### EXAMPLE OF AN ANTI-VIOLENCE THEME IN A MOVIE

This film begins with the rape of a 17-year-old girl by several members of a fraternity at a campus homecoming party. After the rape, which is the only violence in the film, the girl is left alone in a drunken state and dies from suffocation after vomiting. The rape occurs in the first few minutes of the story, with the rest of the film focusing on the remorse felt by two of the fraternity brothers who participated in the rape. As a result of growing guilt, one of the fraternity brothers drops out of school. By the end of the story, we learn that he commits suicide.

The other fraternity brother initially suffers psychological pain as he fears getting punished by the police. He tells his father, a lawyer, what happened so that his father can help him and his friends avoid arrest. We see the father suffer the pain and trauma of trying to protect his son while hoping that he will do the right thing. We also see the father struggle with the issue of telling his wife about the incident. When he finally tells her, we see the mother's shock and grief. The film ends with the college student realizing that he cannot continue to hide from his responsibility to confess to police. Accompanied by his family, he finally turns himself in.

The movie has a clear theme that violence can have extreme consequences for perpetrators, and that this harm radiates to others close to those individuals. Nowhere in this film is violence ever glamorized; to the contrary, it is consistently characterized as painful and repugnant.

• VIOLENCE CONTINUES TO PERVADE AMERICAN TELEVISION.

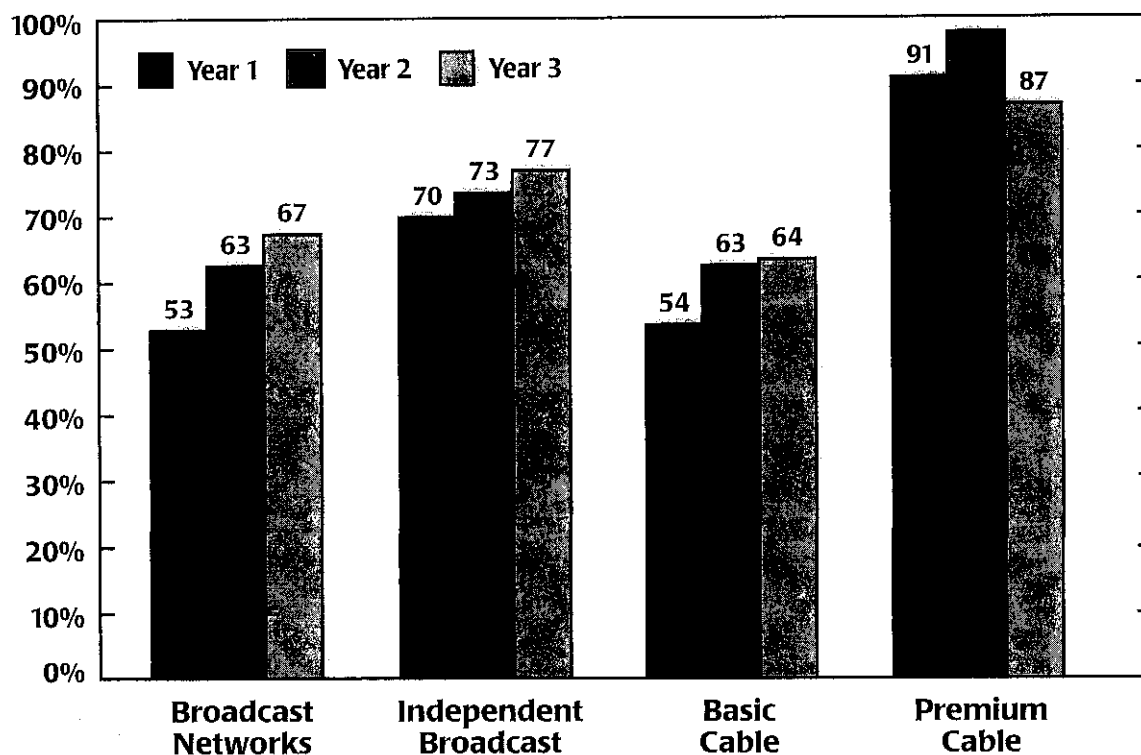
Across the three years of this study, a steady 60% of TV programs contain violence. The proportion of shows that contain violence has varied by only 3% during this study: 58% in 1994-95; 61% in 1995-96; and 61% in 1996-97. These figures are based on a 7-day, 6:00 a.m. to 11:00 p.m. composite week representative sample of roughly 2700 programs each year.

The prevalence of violence takes on special meaning when coupled with the harmful formulas outlined above. Not only do the majority of programs contain violence, but much of the violence is glamorized, sanitized, and trivialized.

In prime time, the proportion of programs with violence has increased on the broadcast networks and on basic cable. During the 3-hour per night prime-time period, the period that draws the most viewers, the percentage of programs that contain violence on the four broadcast networks has risen by 14% since 1994 (See Table 5). In the first year of the study, 53% of programs on prime-time network broadcast channels contained violence, and by the third year, 67% of the programs do. It is important to point out that many of the newest television series are found during prime time on these four channels. In addition, the proportion of programs that contain violence during prime-time on basic cable rose by 10%, from 54% in 1994 to 64% three years later. None of the other channel types shows any statistically meaningful change in the prevalence of violence during prime-time hours. It should be noted, however, that of all channel types, premium cable continues to feature the highest percentage of programs with violence during this time period.

TABLE 5

### Prime-Time Programs with Violence, Three-Year Comparisons



Note: We excluded public broadcasting from the prime-time analysis because the number of public broadcasting programs containing violence in prime-time was too low for any reliable statistical comparisons to be made.

The typical violent program contains at least 6 violent incidents per hour. This means that on average, a viewer watching American television will be exposed to at least six different violent interactions between a perpetrator and a victim per hour. Furthermore, each of these violent interactions can entail multiple acts of aggression. In fact, it is rare for a perpetrator to hit, stab, or shoot someone only once. More than 60% of the violent incidents involve repeated behavioral acts of aggression.

- FOR CHILDREN UNDER 7, HIGH-RISK PORTRAYALS OF VIOLENCE THAT TEACH AGGRESSION ARE FOUND MOST OFTEN IN CARTOONS.

Certain depictions can be labeled "high risk" because several plot elements that encourage aggressive attitudes and behaviors are all featured in one scene. These high-risk portrayals involve: 1) a perpetrator who is an attractive role model, 2) violence that seems justified, 3) violence that goes unpunished (no remorse, criticism, or penalty), 4) minimal consequences to the victims, and 5) violence that seems realistic to the viewer.

For younger viewers, such harmful features of violence come together most often in cartoons. This type of programming is most likely to feature heroes engaging in justified violence that goes unpunished and results in minimal harm to the victim. To be sure, cartoons pose little risk for older, more mature viewers who routinely discount this content as unrealistic. Yet younger viewers, particularly those under the age of about 7, have difficulty distinguishing reality from fantasy on television. Thus, preschoolers are capable of imitating and learning from fantasy portrayals of violence in cartoons.

#### EXAMPLE OF A HIGH-RISK PORTRAYAL FOR YOUNGER CHILDREN

One example of a high-risk portrayal for younger children comes from an animated children's series featuring three anthropomorphized cats who fight evil. In this particular episode, some bad guys, also anthropomorphized animals, are allegedly running a modeling school but in reality are scouting for young women to kidnap and train as soldiers. The high-risk portrayal features the hero cats using their ninja skills and sharp swords to battle the villains. After numerous sword slashes, several of the villains crumble to the ground but two of them escape from the scene.

This violent depiction has all the components that qualify it as high risk for encouraging aggressive attitudes and behaviors in young viewers. The perpetrators are primary characters who are readily identifiable and attractive in nature. The violence seems justified because the heroes have exposed the true purpose of the modeling school and are trying to save innocent young women from peril. Furthermore, there is no punishment or remorse for the violence. On the contrary, the heroes are exalted in individual spotlights just prior to the battle scene, each being introduced by name. Finally, the repeated and potentially serious aggression against the bad characters does not produce any lasting harm. In fact, several of the bad characters appear later in the program, apparently unscathed by the sword attack. Though this portrayal involves anthropomorphized creatures in a cartoon setting, it still qualifies as high risk for children under the age of 7 because such younger viewers have difficulty distinguishing fantasy from more realistic depictions.

The average American preschooler who watches mostly cartoons is exposed to over 500 high-risk portrayals of violence each year. Research indicates that the typical preschooler in the United States watches about 2–3 hours of television a day. Our study shows that there is nearly one high-risk portrayal of violence per hour in cartoons. Extrapolating from this, a preschooler who watches 2 hours of cartoons daily will see over 500 of these hazardous portrayals that encourage aggression each year. Table 6 shows the distribution of high-risk portrayals among television genres.

This statistic reflects only a portion of the actual violence such a young child sees. In fact, a preschooler who watches about 2 hours of cartoons a day is exposed to nearly 10,000 violent incidents each year. Many of these incidents contain elements of risk, but at least 500 of them feature a potent set of contextual features making them high risk for teaching aggressive attitudes and behaviors. We ask readers to consider the following: even one televised depiction that encouraged a child to drink poison or play with fire undoubtedly would come under great public attack. We should be just as critical of recurrent portrayals of violence that encourage young children to think of physical aggression as an acceptable and innocuous way to solve problems.

TABLE 6

### Young Children: High-Risk Patterns for Learning Aggression by Genre and Time

TIME OF DAY	DRAMA	COMEDY	CHILDREN'S	MOVIES	MUSIC VIDEOS	REALITY-BASED
<b>Before School</b> (6:00a.m.–9:00a.m.)						
<b>During School</b> (9:00a.m.–3:00p.m.)						
<b>After School</b> (3:00p.m.–6:00p.m.)						
<b>Early Evening</b> (6:00p.m.–8:00p.m.)						
<b>Prime Time</b> (8:00p.m.–11:00p.m.)						

	No High-Risk Incidents
	Minimal # of High-Risk Incidents
	Moderate # of High-Risk Incidents
	Substantial # of High-Risk Incidents



# Savage scenes add to characters' struggles

Kiefer Sutherland's Jack Bauer died at the end of Fox's "24" Tuesday, which may have shocked a lot of people (even though he could be revived). What shocked me was the way he died.

He was tortured for most of the show's hour, in some of the most disturbing and graphic depictions of violence I've ever seen on a broadcast network entertainment program.

Bauer was hung naked from his wrists, with his mouth forced open by a bit gag. His skin was sliced with a scalpel, he was shocked with electrical current and Tasers, and his flesh was burned until parts of his body emitted smoke.

And then, his captors accidentally killed him.

The Taser scene, especially, was so unflinchingly brutal, it was hard to watch — like the den-

tist's-drill scene in "Marathon Man." But that was a hard-edged, R-rated movie seen by paying customers.

"24" came into our homes on free TV, and at full blast.

And an hour before "24," an equally disturbing violent act aired on UPN's "Buffy the Vampire Slayer."

Yes, "Buffy" deals with a more fanciful premise than the terrorists of "24," but its dangers and villains are no less dark, and, supernatural concept aside, its characters are no less real.

During "Buffy's" climactic fight scene, the heroic Xander (Nicholas Brendon), who has been fighting evil since the series began in 1997, had his eye gouged out by the thumb of a powerful adversary.

On cable TV, we've seen shocking scenes of violence on HBO's "The Sopranos" and FX's "The



Shield, but this is broadcast TV. Boundaries are definitely being pushed here — and though I was upset when I saw them, I'm not upset that they aired.

Those scenes were so disturbing to me precisely because the characters and the conflicts were credible enough to suck me

in. These encounters with evil let us know just how bad the bad guys are in these cases, and how high the stakes can be.

In next week's "24," Bauer may be revived after being clinically dead for a few minutes, or he may really be dead, which would throw the narrative in a

new direction. On "Buffy," the episode ended with the results evident, as the other wounded heroes surrounded the bed of the half-blind Xander.

The pains the characters suffered were central to their respective shows' season-long story lines. This wasn't gratuitous violence, just especially nasty and sadistic.

To find scenes with similar raw impact on broadcast TV, you'd have to go back more than a decade — to when Ray Wise's Deland Palmer beat Sheryl Lee's Madeleine Ferguson to death by smashing her head against a wall on "Twin Peaks." (If you remember, that set off one of the more recent campaigns against TV violence.)

And with the open-ended structure of "24" (which wrapped up last season with the killing of Jack's wife, a central character), and the series-ending countdown of "Buffy" (with only a few episodes to go, anyone could die), there's the sense that we've got more shocks to come.

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DAVID  
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## EXHIBIT 4

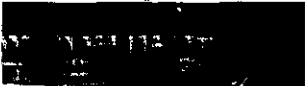
### 2. Highlights from CBS's *C.S.I. (Crime Scene Investigation)*, February 21, 2002

Although this drama series normally airs at 9:00 p.m. (Eastern/Pacific), last week CBS chose to air a rerun during the family hour. The 8:00 episode contained graphic scenes of violence, gore, and dismembered bodies, including:



A  
severed human head is found in the trunk of a car.

Investigators find a skinned, headless body.  
The hands and feet have been cut off as well. The  
chest area of the dismembered body is shown, and  
muscle and tissue are exposed.



Investigators speculate that the killer had to sever the head of his victim in order to make the body fit in a footlocker or trunk. A clip shows a man trying to shove a body into a trunk, but it doesn't fit. Then someone is shown in silhouette, using a hammer to hold the top of the head, then chopping at the neck as blood spatters everywhere.

Subject: Beheading on Radio

Pretty gruesome. . .

EXHIBIT 5

# Radio Indecency Takes On New Meaning With Beheading Audio



From Corey Deitz,  
Your Guide to Radio.  
FREE Newsletter. Sign up now!

May 18 2004

## Commentary

Late last week 2 Portland morning DJs were fired because they aired the audio portion of the Nick Berg beheading video and basically made fun of the whole thing.

"Marconi" and "Tiny" from the KNRK-FM morning show were terminated Thursday in response to angry listener reaction to the on-air segment. The DJs played the audio of Berg's execution and inserted musical accompaniment while laughing during Berg's screams.

The station, owned by Entercom Radio, was not only justified in firing these guys but stands as an example of Radio still having a conscience.

People who like exciting and interesting radio, also want air personalities who sometimes take chances. But on-air performers are the first tier of responsibility and must always measure the implications of their actions.

This stupid stunt was the epitome of indecency on the air. Yet, if Entercom had not policed itself, the F.C.C. certainly wouldn't have issued any fines or warnings. After all, the program's segment wasn't about sex or excretory organs...it was just violence.

Mention "indecency" and most of us immediately respond with our default thinking, assuming indecency can only be about sex, genitals, and whatever else happens between our legs.

Similarly, it seems the F.C.C. and Congress are obsessive compulsive when it comes to worrying about somebody faking an orgasm on the air for a prize because "the children might hear it". Yet, airing a dying man's blood curdling screams? Not really much of a worry to them. Go on kids, off to school. Have a nice day.

The FCC has defined broadcast indecency as "language or material that, in context, depicts or describes, in terms patently offensive as measured by contemporary community broadcast standards for the broadcast

7/2/2004

# TV and movies teach violence

## EXHIBIT 6

By Bob Greene  
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Tribune Media Services

**‘W**e’ve all begun to pay the price for the violence that is passed off as entertainment in this country. The people who run the movie studios and TV networks are always saying that they’re not responsible for the growth in the violence in our society.

“But they’re wrong, and I think they know they’re wrong.”

### ENTERTAINMENT EXECS LYING

Those are not the words of a conservative activist, or of a member of the clergy. The speaker is Barbara McDermott, a 45-year-old Midwestern mother of two who also works as a tutor for boys and girls who are unable to go to school. She is reflecting a growing sentiment among many Americans: that after all the years of entertainment executives protesting that they are only reflecting the violence in society, not promoting it, the time has come to understand that the entertainment executives are liars.

“If you show people something over and over, they’re going to absorb it,” McDermott said. “If a child has a working brain, and he or she sees terrible violence day after day, hour after hour, that child is going to pick up on it. Violence becomes accepted once you’ve seen it enough from the safe distance of a movie screen or a TV set. Violence becomes an option.”

No wonder the entertainment executives are nervous these days. The American people have finally caught on that the purveyors of television and movie violence are not operating from some moral high ground of freedom of expression. They are actively harming the quality of life in our country by sending the worst kind of inhuman behavior into millions of homes, and they’re doing it because it’s an easy way to make money.

“They’re just selling it,” Barbara McDermott said. “That’s all they’re interested in.”

The old argument that ours is a violent society, and that the movie and television producers are simply mirroring what goes on around us anyway, does not work. The American Psychological Association has estimated that the average child in the United States sees on TV 8,000 murders and 100,000 acts of violence before finishing elementary school.

Regardless of how rough a neighborhood a child lives in, the horrific violence that is being peddled via television and the movies is more, in quantity, than any child will ever see in real life. And

there are consequences to this.

“All of these news stories about children killing other children—how do you think that happened?” Barbara McDermott said. “There are generations of children who have grown up seeing ever increasing violence delivered into their homes on television programs. Shootings and beatings and murders are right in their homes, and they see it day after day, night after night, and after a while it seems exciting and even logical. If you get angry enough, you grab your gun and shoot. Before all of this, you never saw children bringing guns to school. You do now.”


Is it unfair to blame the entertainment executives for this? No. Television is still such a new phenomenon that we have yet to learn everything about how it has changed our world. It has changed it in good ways and bad, but maybe the worst is that it has enabled people you would never allow into your house to come in all the time, showing and doing things you would never permit if you had a choice.

Now you have no choice—not unless you make the drastic decision to have no television set at all. It does no good to watch only programs you know to be violence-free; the networks and local stations are constantly promoting their more lurid fare during commercial breaks all day and all evening, and families with children are especially appalled when a promo for something vicious and base comes on and off their screen before they can do anything about it.

### NOT A RIGHTIST AGENDA

People who complained about this used to be accused of having a far-right political agenda. That is changing rapidly. “Even if it were to stop completely right now, it might be too late,” Barbara McDermott said. “We have seen these constant violent images for so long, maybe it can’t be fixed. Most families have rules about what is acceptable behavior, but what comes into the house on TV violates those rules all the time.”

The people who peddle this violent and harmful programming categorize themselves with such names as creators and directors and executive producers.

But the country has at last discerned what they really are. They are home invaders. 

Bob Greene is a nationally syndicated columnist. Readers may write to him c/o Tribune Media Services, 64 E. Concord St., Orlando, FL 32801.

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